

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE ADDING CHAPTER 19.29 TO THE SUNNYVALE
MUNICIPAL CODE IMPLEMENTING THE MOFFETT PARK
SPECIFIC PLAN AND MAKING RELATED CHANGES TO
OTHER SUNNYVALE MUNICIPAL CODE PROVISIONS**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN
AS FOLLOWS:

SECTION 1. CHAPTER 19.12 AMENDED. Chapter 19.12 of the
Sunnyvale Municipal Code is hereby amended by adding the following
definitions to various sections to read as follows:

19.12.080 “G”

(1) – (4) [Text unchanged.]

(5) “Green Building” means a whole systems approach to the design, construction, and operation of buildings that helps mitigate the environmental, economic, and social impacts of buildings. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.

(5) – (6) [Renumbered consecutively as (6) – (7).]

19.12.130 “L”

(1) – (4) [Text unchanged.]

(5) (a) “LEED™ Green Building Rating System” means the most recent version of the Leadership in Energy and Environmental Design (LEED™) Commercial Green Building Rating System, or other related LEED™ Rating System, approved by the USGBC. The rating system is based on points that are awarded for sustainability techniques.

(b) “LEED™ Certified” refers to the lowest level of certification available in the current LEED™ Rating System, which may be amended from time to time. There are four levels of LEED™ certification available: Certified, Silver, Gold , and Platinum.

(c) “LEED™ Accredited Professionals” are experienced building industry practitioners who have demonstrated their knowledge of integrated design and their capacity to facilitate the LEED™ certification process by passing the LEED™ professional accreditation exam.

(5) – (14) [Renumbered consecutively as (6) – (15).]

19.12.200 “S”

(1) – (23) [Text unchanged.]

(24) “Sustainable development” means development and construction practices designed to use natural resources in a manner that does not eliminate, degrade, or diminish their usefulness for future generations.

19.12.210 “T”

(1) – (8) [Text unchanged.]

(9) “Transportation Demand Management (TDM)” means the incorporation of a variety of incentives, services, actions, and physical improvements that influence the reduction of automobile trips in order to provide additional relief from congestion, parking and air quality impacts.

(9) [Renumbered as (10).]

19.12.220 “U”

(1) [Text unchanged.]

(2) “USGBC” means United States Green Building Council.

(2) [Renumbered as (3).]

SECTION 2. CHAPTER 19.12 AMENDED. Chapter 19.12 of the Sunnyvale Municipal Code is hereby amended by deleting Section 19.12.170 (3) in its entirety and adding a new Section 19.12.170 to read as follows:

19.12.170. “P”

(1) – (2) [Text unchanged.]

(3)(a) “Places of Assembly – business serving” means permanent headquarters and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, such as business associations, professional membership organizations, labor unions and similar organizations. (b) “Places of Assembly – community

serving” means permanent headquarters and meeting facilities for civic, social and fraternal organizations (not including lodging), political organizations and other membership organizations. This category includes religious uses and facilities operated for worship; promotion of religious activities, including houses of worship and education and training; and accessory uses on the same site, such as living quarters for ministers and staff, and child day care facilities where authorized by the same type of land use permit required for the primary use. Other establishments maintained by religious organizations, such as full-time educational institutions, hospitals and other related operations (such as recreational camps) are classified according to their respective activities.

(4) – (13) [Text unchanged].

SECTION 4. CHAPTER 19.28 AMENDED. Chapter 19.28 of the Sunnyvale Municipal Code is hereby amended by modifying section 2B of Table 19.28.070 as follows:

TABLE 19.28.070

Permitted, Conditionally Permitted and Prohibited Uses in Mixed Use, Commercial and Office DSP Blocks

2. Recreational Uses								
A. Amusement and entertainment establishments	SDP	SDP	SDP	SDP	SDP	N	P	SDP
B. Places of assembly, both business and community serving	N	SDP	SDP	SDP	SDP	N	N	SDP
C. Parks, playgrounds and recreational areas	SDP	SDP	SDP	SDP	SDP	SDP	SDP	SDP
D. Theaters, including both movie theaters and theaters for live performances	SDP	SDP	SDP	SDP	N	N	SDP	N

[All other sections of Table 19.28.070 remain unchanged.]

SECTION 5. CHAPTER 19.28 AMENDED. Chapter 19.28 of the Sunnyvale Municipal Code is hereby amended by modifying section 7C of Table 19.28.080 as follows:

TABLE 19.28.080

Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP Blocks

7. Other Uses					
A. Office: administrative, professional and medical	N	N	SDP	SDP ¹	N
B. Adult entertainment establishments, as defined in this code	N	N	N	N	N

C. Places of assembly, both business and community serving .	SDP	SDP	SDP	SDP	SDP
D. Electric transmission substations	N	N	N	N	N

[All other sections of Table 19.28.080 remain unchanged.]

SECTION 6. CHAPTER 19.29 ADDED IN ITS ENTIRETY. Chapter 19.29 of the Sunnyvale Municipal Code is hereby added in its entirety as set forth in Exhibit A, attached and incorporated.

SECTION 7. CEQA COMPLIANCE. As part of the process of adopting the Moffett Park Specific Plan, the City has analyzed the environmental effects of this ordinance, certified a Program Environmental Impact Report and a Mitigation Monitoring and Reporting Program on November 11, 2003, and made necessary findings required by the California Environmental Quality Act (*Public Res. Code* §§ 21000 *et seq.*; "CEQA"). The City finds that the adoption of this ordinance is within the scope of the program EIR and no new environmental documentation is required.

SECTION 8. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 9. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on May 11, 2004, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

Exhibit "A"**Chapter 19.29****MOFFETT PARK SPECIFIC PLAN DISTRICT**

Sections:

- 19.29.010 Moffett Park Specific Plan District established.
- 19.29.020 Incorporation of Moffett Park Specific Plan, findings and purpose.
- 19.29.030 Regulations generally.
- 19.29.040 MP subdistricts.
- 19.29.050 Permitted, conditionally permitted and prohibited uses.
- 19.29.060 Development intensity.
- 19.29.070 Development Reserve, transfer of development rights, access, permit duration.
- 19.29.080 Development review permits and procedures, generally.
- 19.29.090 Minor Moffett Park Design Review Permit.
- 19.29.100 Minor Moffett Park Special Development Permit.
- 19.29.110 Major Moffett Park Design Review Permit.
- 19.29.120 Major Moffett Park Special Development Permit.
- 19.29.130 MPSP Green Building development requirement.
- 19.29.140 MPSP Subdistrict site development standards.
- 19.29.150 Deviations from standards.
- 19.29.160 Application of mitigation measures.

19.29.010 Moffett Park Specific Plan District established.

A zoning district entitled the "Moffett Park Specific Plan" District (MP) is established as shown on the official precise zoning plan, zoning district map, City of Sunnyvale, on file in the office of the city clerk and incorporated by reference.

19.29.020 Incorporation of Moffett Park Specific Plan, findings and purpose.

(a) The MP District is established to implement the Moffett Park Specific Plan (MPSP), which is incorporated herein by reference. The MPSP is a comprehensive, long term planning document for the MPSP area, and includes architectural and design guidelines, site development standards, public facility improvement plans, and an environmental mitigation monitoring program to be implemented through zoning and subdivision regulations, development standards, and public and private improvements.

(b) The city council makes the following findings:

(1) Implementation of the MPSP will diversify and strengthen the economic opportunities and fiscal health of the city.

(2) Implementation of the MPSP will contribute positively to the City's regional prominence and community character.

(3) Implementation of the MPSP is in accordance with the city's goal to promote sustainable development.

(c) It is the purpose of the provisions of this chapter to:

(1) Protect and promote the public health, safety, peace, comfort and general welfare;

(2) Define development procedures and administrative requirements to obtain the objectives of the MPSP.

19.29.030 Regulations generally.

(a) The regulations contained in this chapter shall apply in the MP district, in conjunction with the standards, guidelines, and improvement plans contained in the MPSP document.

(b) Whenever this chapter does not provide specific standards and/or procedures for the review, approval and/or administration of development projects within the MP district or for appeals concerning approvals or administration of development projects, the standards and procedures in this code shall apply.

(c) The owner or occupant of land or buildings used for any purpose in the MP district shall provide the facilities as required by and which conform with the regulations set forth in this chapter and the MPSP; provided however, that buildings, structures or uses lawfully constructed or established prior to the effective date of this chapter which do not comply with the provisions hereof shall be deemed legally nonconforming in accordance with the provisions of Chapter 19.50.

19.29.040 MP subdistricts.

The MP district is divided into three subdistricts to further refine development requirements within the MPSP area:

(a) Moffett Park - General Industrial (MP-I), primarily intended for the construction, use and occupancy of buildings as office, corporate headquarters, research and development (R&D), warehousing and limited manufacturing; as well as ancillary supportive uses.

(b) Moffett Park - Transit Oriented Development (MP-TOD), intended for the construction, use and occupancy of buildings as corporate headquarters, research and development (R&D), general office and ancillary support services; as well compatible general industrial uses. This subdistrict encourages integrated mixed uses with pedestrian friendly and transit supportive development and design features.

(c) Moffett Park - Commercial (MP-C), intended for the construction, use and occupancy of buildings as commercial support services to the businesses of Moffett Park.

19.29.050 Permitted, conditionally permitted and prohibited uses.

(a) Table 19.29.050 sets forth those uses which are permitted, conditionally permitted, or prohibited in each of the Moffett Park Specific Plan subdistricts.

(b) It is a violation of this chapter to:

(1) Engage in a prohibited use;

(2) Engage in a use requiring a permit without first obtaining that permit;

(3) Engage in a use that is conditional without complying with the imposed conditions.

(c) Permitted uses. Permitted uses are allowed subject to compliance with all applicable provisions of the Specific Plan and the Sunnyvale Municipal Code. All permitted uses that require no new construction or additions or changes to the exterior of the building may be conducted within existing enclosed buildings. Major changes for either approved or permitted uses to exterior appearance, new construction, site improvements, or additions to an existing building shall require a Moffett Park Design Review Permit (MP-DRP) or Moffett Park Special Development Permit (MP-SDP). Minor changes to the exterior of a building for either approved or permitted uses may approved by the director of community development through a Miscellaneous Plan Permit (MPP) as set forth in Chapter 19.82.

(d) Uses are to be conducted entirely within an enclosed building unless otherwise identified in the table. Where unenclosed uses are allowed through the approval of a planning permit, such a use (excepting, e.g., outdoor seating, plazas, etc.) is prohibited from locating in a required front yard and is to be screened from view from adjacent streets and adjacent property with suitable landscaping, walls, or fencing as determined by the approving authority.

Table 19.29.050
Permitted, Conditionally Permitted and Prohibited Uses
in MPSP Subdistricts

In the table, the letters and symbols are defined as follows:

P = Permitted use. A Moffett Park Design Review Permit is required pursuant to Section 19.29.050(c). Development exceeding the standard FAR limit must be reviewed through a Major Permit.

SDP = Special Development Permit. A Moffett Park Special Development Permit is required.

MPP = Miscellaneous Plan Permit. A Miscellaneous Plan Permit is required.

N = Not permitted. Prohibited.

Table 19.29.050

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
1.		Office, Research and Development			
	A.	Corporate, professional, research and development, and administrative offices (maximum of 10% FAR as exclusive manufacturing, processing or assembly)	P	P	N
	B.	Financial institutions (without drive-through facilities)	P	P	P
	C.	Medical offices and clinics	SDP	SDP	SDP
	D.	Research and Development primarily of propellants or explosives and related manufacturing or processing	SDP	SDP	N
2.		Manufacturing and Warehousing			
	A.	Electronic data storage and data server farms	N	P	N
	B.	Manufacture, processing, repair, compounding, packaging, assembly or treatment plants or facilities for equipment, materials or products, including production bakeries and food processing activities. (Non-hazardous materials)	SDP	P	N
	C.	Printers, copiers, and engravers using chemical processes	SDP	SDP	N
	D.	Wholesale or commercial storage or warehousing of merchandise or products within a building.	N	P	N
3.		Commercial			
	A.	Custom fabricators	SDP	P	N
	B.	Drive-through businesses, except restaurants	SDP	SDP	SDP
	C.	Laundry and Dry Cleaning drop off and pick up with off-site processing; dry cleaning service with on-site self contained system; self-operated coin-op laundries	MPP	MPP	MPP
	D.	Laundry or Dry Cleaning, bulk service or processing as an off-site facility	N	SDP	N

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
	E.	Personal service businesses (i.e, hair salon, barber, cosmetology)	MPP	MPP	MPP
	F.	Repair shops for household appliances and wearing apparel	P	P	P
	G.	Retail sales businesses and or centers (individual tenant sizes under 10,000 sq. ft.)	MPP	MPP	MPP
	H.	Retail sales businesses over 10,000 sq. ft. ("Destination Retail")	N	SDP	N
	I.	Service commercial uses to support businesses, e.g. copiers or printers.	P	P	P
	J.	Self storage "mini warehousing"	N	N	N
4.		Eating/Drinking Establishments			
	A.	Nightclubs and cocktail lounges, where alcoholic beverages are sold and consumed	SDP	SDP	SDP
	B.	Outdoor seating areas	MPP	MPP	MPP
	C.	Restaurants with drive through service	N	SDP	SDP
	D.	Restaurants and fast food restaurants not serving alcoholic beverages, no drive-through	MPP	MPP	MPP
	E.	Restaurants and fast food restaurants that serve alcoholic beverages	SDP	SDP	SDP
	F.	Take-out restaurants, no drive-through	MPP	MPP	MPP
5.		Automotive			
	A.	Car wash facilities	N	SDP	SDP
	B.	Gasoline Stations with or without automobile service and repair	SDP	SDP	SDP
	C.	Parking structures and surface lots as independent or stand alone use on a property	SDP	SDP	N
	D.	Automobile Repair and Service	N	N	N
6.		Public Facilities			
	A.	Public transportation facilities: storage for public transportation facilities when not in use or pending dispatch	SDP	SDP	SDP
	B.	Public transportation facilities: stop or station along a public transit line	MPP	MPP	MPP
	C.	Public utility buildings and service facilities	SDP	SDP	SDP

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
	D.	Public Parks	P	P	P
	E.	City Facilities (i.e., fire station, police station, etc)	P	P	P
7.		Boarding/Lodging			
	A.	Hotels or motels	SDP	SDP	MPP
	B.	Residential (single family or multiple family)	N	N	N
	C.	Security personnel or caretakers sleeping quarters in conjunction with a primary office or manufacturing type use	MPP	MPP	N
8.		Other			
	A.	Accessory structures, including emergency generators (non-hazardous materials)	P	P	P
	B.	Adult business (subject to provisions of SMC Chapter 9.40)	P	P	P
	C.	Childcare centers small business sponsored (maximum 14 children)	MPP	MPP	N
	D.	Childcare centers, large business sponsored (maximum 30 children)	SDP	SDP	N
	E.	Educational uses of higher learning, with or without dormitories	SDP	SDP	N
	F.	Emergency shelter containers (ARKs) meeting criteria described in Section 19.22.05 of the Zoning Ordinance	P	P	P
	G.	Emergency shelter containers other than ARKs	SDP	SDP	N
	H.	Hazardous materials storage as defined in Titles 20 and 21 of the Municipal Code	P	P	N
	I.	Hazardous materials storage facilities which meet the criteria of Section 19.22.060 of the Zoning Code	MPP	MPP	N
	J.	Hazardous materials storage facilities which do not meet the criteria of Section 19.22.060 of the Zoning Code	SDP	SDP	N
	K.	Hazardous wastes management facilities which meet the criteria of Section 19.22.070 of the Zoning Code	SDP	SDP	N

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
	L.	Incidental and accessory outdoor storage, mechanical equipment which meet criteria in Chapter 19.82 of the Zoning Code (<5 percent net coverage and screened)	MPP	MPP	MPP
	M.	Incidental and accessory outdoor storage, mechanical equipment which meet criteria in Chapter 19.82 of the Zoning Code (greater than 5 percent net coverage and screened)	SDP	SDP	SDP
	N.	Places of Assembly, business serving	SDP	SDP	SDP
	O.	Places of Assembly, community serving	N	N	N
	P.	Recreational enterprise or business (indoor/outdoor)	SDP	SDP	SDP
	Q.	Recreational, ancillary to on-site general industrial and office uses	MPP	MPP	MPP
	R.	Recycling centers	SDP	SDP	N
	S.	Storage of vehicles incidental to the allowed use (e.g. fleet management)	MPP	MPP	MPP
	T.	Telecommunications facilities	Per Chapter 19.54 of the Zoning Code MS zoning		

19.29.060 Development intensity.

Allowable development intensity within the MPSP area is measured in terms of floor area ratio (FAR). Each subdistrict has a designated standard FAR limitation, as well as a maximum FAR limitation, as set forth in Table 19.29.060. The MPSP encourages high quality, higher intensity development adjacent to public transportation corridors as a means of reducing single-occupancy vehicle commuting and associated traffic congestion and negative air quality impacts, and creates intensity incentives for developers who utilize sustainable development techniques. The MPSP accomplishes these goals by allowing properties in the MP-I and MP-TOD subdistricts to obtain “additional square footage” (FAR entitlement above the standard limit) for development up to the maximum FAR limit in exchange for enhanced, sustainable design features. As a further incentive, an applicant for a proposal to develop over the standard FAR that commits to designing and building a green building will earn entitlement to the additional square footage through a streamlined review process. Entitlement to additional square footage is processed through either a major Moffett Park design review permit (major MP-DR) or a major Moffett Park special development permit (major MP-SDP).

Table 19.29.060
Standard and Maximum Development Intensities In MP Subdistricts

	MP-TOD	MP-I	MP-C
Standard Limitation Floor Area Ratio (FAR) ^{1,2}	0.50	0.35	0.40
Maximum Limitation FAR ^{3,4}	0.70	0.50	0.40

Footnotes

¹ Warehouse uses have a standard and maximum limitation of 0.50 FAR.

² Exception: Parcels identified as "Military" in the MP-TOD subdistrict are not granted the benefits of the subdistrict zoning provisions for increased intensity beyond the level of use existing on November 11, 2003. See MPSP for explanation.

³ Hotels are not subject to FAR limitations.

⁴ Exceeding the standard FAR level is only permitted through the granting of access to Development Reserve or use of Transfer of Development Rights (TDR) through issuance of a major MP-DR or major MP-SDP.

19.29.070 Development Reserve, transfer of development rights, access, permit duration.

(a) Development Reserve.

(1) The MPSP creates a fixed pool of developable square footage designated as the "Development Reserve." Procedures for determining the amount of square footage in the pool and its availability are set forth in the MPSP. Developers of property located in the MP-I and MP-TOD subdistricts may apply for additional square footage from the Development Reserve to develop projects over the standard FAR limitation up to the maximum FAR limitation as set forth in Table 19.29.060. Applications to utilize Development Reserve square footage shall be made by applying for either a major MP-DR or major MP-SDP.

(2) Permits for entitlement to Development Reserve square footage shall be valid for two-years from the date of final approval by the approval authority. Two separate one-year extensions may be requested through the filing of a miscellaneous plan permit prior to the permit's expiration. The extension may be granted at the discretion of the director of community development.

(3) An applicant may obtain an extended, seven year entitlement by a non-refundable prepayment of a portion of the transportation impact fee applicable to the project. Procedures for prepayment and extended entitlement are set forth in the MPSP.

(b) Transfer of Development Rights. A transfer of development rights (TDR) means an entitlement to construct additional square footage above standard FAR on a specific receiver parcel when an equal amount of potential building square footage is transferred by mutual agreement from another specified donor parcel that gives up its right to develop to the

standard FAR allowed by Table 19.29.060. The requirements and process for obtaining additional TDR square footage are set forth in the MPSP. An applicant must obtain either a major MP-DR or major MP-SDP to utilize additional TDR square footage.

19.29.080 Development review permits and procedures, generally.

Planning permits. Development review procedures within the subdistricts are prescribed by the type of use proposed in conjunction with the level of FAR intensity desired. There are two development permits unique to the MPSP area: the Moffett Park Design Review Permit (MP-DR) and the Moffett Park Special Development Permit (MP-SDP). Each permit is further divided into two categories: minor or major. Generally, minor permits are required for development at the standard FAR or less, major permits are required for development in excess of the standard FAR.

19.29.090. Minor Moffett Park Design Review Permit.

(a) Purpose. A minor MP-DR is an administrative process to allow the determination of the dimensions, colors, materials, architectural elevations, design and placement of the physical characteristics of a project, as well as compliance with design requirements described in the MPSP. Evaluation shall be in accordance with the regulations of this code and the MPSP. The procedures identified in this section shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expirations, extensions, revocation and infractions.

(b) When required. A minor MP-DR is required for all uses that are designated with a "P" as set forth in Table 19.29.050 with an FAR up to, but not exceeding, the standard FAR as set forth in Table 19.29.060. In those instances where a project is permitted and below the standard FAR limitation, but due to unique circumstances the project will require higher-level environmental review and analysis, the director of community development may conduct at least one public hearing before making a decision.

(c) Decisions.

(1) The director of community development, without notice or hearing, may:

(A) Approve the minor MP-DR as requested or as changed, modified or conditioned by the director of community development if the director finds, as approved, that the project meets the required findings.

(B) Deny the minor MP-DR if the director finds that the project would not meet the required findings.

(2) After receiving an appeal from the decision of the director of community development on a minor MP-DR, and following a public hearing,

the planning commission (whose decision is final) by the affirmative vote of a majority of its voting members may:

(A) Approve the minor MP-DR as requested or as changed, modified or conditioned by the commission, if the commission finds that project as approved meets the required findings; or

(B) Deny the minor MP-DR if the commission finds that the project would not meet the findings.

(d) Findings. The director of community development or the planning commission may approve any minor MP-DR, upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the permit will both:

(1) Attain the objectives and purposes of the MPSP; and

(2) Substantially conform with the Moffett Park Design Guidelines set forth in Chapter Six of the MPSP.

19.29.100 Minor Moffett Park Special Development Permit.

(a) Purpose. A minor MP-SDP is intended to allow the establishment of those uses which have unique characteristics or special form such that their effect on the surrounding environment must be evaluated for a particular location. The permit application process allows for review of the location, design, configuration of improvements, operation of the use and potential impacts on the surrounding area. The procedures identified in this section shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expirations, extensions, revocation and infractions.

(b) When required. A minor MP-SDP is required for all projects that are designated with an "SDP" as set forth in Table 19.29.050 with an FAR up to, but not exceeding, the standard FAR limitation as set forth in Table 19.29.060.

(c) Decisions.

(1) The director of community development, after holding at least one public hearing, may:

(A) Approve the minor MP-SDP as requested or as changed, modified or conditioned by the director of community development if the director finds that the use or project, as approved, meets the required findings.

(B) Deny the minor MP-SDP if the director finds that the use or project would not meet the required findings.

(2) After receiving an appeal from the decision of the director of community development on a minor MP-SDP, and following a public hearing, the planning commission (whose decision is final) by the affirmative vote of a majority of its voting members may:

(A) Approve the minor MP-SDP as requested or as changed, modified or conditioned by the commission, if the commission finds that project as approved meets the required findings; or

(B) Deny the minor MP-SDP if the commission finds that the project would not meet the findings.

(d) Findings. The director of community development or the planning commission may approve any minor MP-SDP, upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the permit will both:

(1) Attain the objectives and purposes of the MPSP; and

(2) Ensure that the site improvements, general appearance of proposed structures, and the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties.

19.29.110 Major Moffett Park Design Review Permit.

(a) Purpose. The major MP-DR provides an incentive-based streamlined permit process for development proposals above the standard FAR limitation that commit to utilizing sustainable design and building techniques. Such projects may earn an entitlement to additional square footage, and require only a limited hearing before the planning commission for review of site and architectural design, and any proposed deviations to development standards. The procedures identified in this section shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expirations, extensions, revocation and infractions.

(b) An application for a project which seeks additional square footage and includes a commitment by the applicant to utilize sustainable design and construction features shall be reviewed by the director of community development. The director shall determine that the application is complete and meets the requirements to be processed as a major MP-DR when all of the following conditions are met:

(1) The project complies with all zoning and development standards for the MPSP area, in addition to general procedures and requirements of this code.

(2) All required CEQA documents have been prepared.

(3) The project proposal includes a TDM plan that complies with the trip reduction requirements set forth in the MPSP.

(4) The project design team includes a LEED™ Accredited Professional.

(5) The project meets green building requirements:

(A) Project applications deemed complete prior to January 1, 2009: The project has been designed with the intent to meet the "LEED™ Certified" rating. Applicant must submit information to demonstrate design/ construction measures are included that would achieve a minimum score for a "LEED™ Certified" rating, in compliance with requirements set forth in the MPSP. Actual project submission to the USGBC is optional.

(B) Project applications deemed complete on or after January 1, 2009: The project has been designed to achieve a minimum of a "LEED™ Certified" rating and the building(s) is registered with the USGBC for certification. The applicant must agree to prepare and submit the application for certification as soon as permissible with the USGBC and shall provide the City with documentation of the "LEED™ Certified" rating or better.

(c) Application and processing. An application for a major MP-DR shall be submitted in accordance with the procedures set forth in Chapter 19.98 and on forms and with such additional information as designated by the director of community development. The director of community development, without notice or hearing, may:

(1) Approve the processing of the project as a major MP-DR as requested or as changed, modified or conditioned by the director of community development if the director determines that the project meets the conditions required by subdivision (b).

(2) Deny the processing of the project as a major MP-DR if the director determines that the project does not meet the required conditions. In such a case, the application will be processed as a major MP-SDP.

(d) After the conditions set forth in subdivision (b) have been met, the planning commission shall conduct a design review of the project to consider the dimensions, colors, materials, architectural elevations, design and placement of the physical characteristics of a project, as well as compliance with design requirements described in the MPSP, and any proposed deviations from development standards. Evaluation shall be in accordance with the regulations of this code and the provisions of the MPSP.

(1) The planning commission, after holding at least one public hearing, may:

(A) Approve the major MP-DR as requested or as changed, modified or conditioned by the commission if it finds, as approved, that the project meets the required findings.

(B) Deny the major MP-DR if the commission finds that the project would not meet the required findings.

(2) After receiving an appeal from the decision of the planning commission on a major MP-DR, and following a public hearing, the city council, by the affirmative vote of a majority of its voting members may:

(A) Approve the major MP-DR as requested or as changed, modified or conditioned by the council, if the council finds that project as approved meets the required findings; or

(B) Deny the major MP-DR if the council finds that the project would not meet the findings.

(3) Findings. The planning commission may approve any major MP-DR, upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the permit will both:

(A) Attain the objectives and purposes of the MPSP; and

(B) Substantially conform with the Moffett Park Design Guidelines set forth in Chapter Six of the MPSP.

19.29.120 Major Moffett Park Special Development Permit.

(a) Purpose. The major MP-SDP provides a process for applicants to create higher intensity projects in situations where use of green building techniques may not be available for the use or site, or where there are potentially significant environmental impacts which require the preparation of an environmental impact report. The procedures identified in this section shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expirations, extensions, revocation and infractions.

(b) When required. A major MP-SDP is required for projects in the MP-TOD and MP-I subdistricts that propose an FAR level over the standard and up to the maximum FAR limits set forth in Table 19.29.060, but are not utilizing green building techniques to the level required to achieve a "LEED™ Certified" rating, or for projects where there are potentially significant environmental impacts and the preparation of an environmental impact report is required.

(c) Application and processing. An application for a major MP-SDP shall be submitted in accordance with the procedures set forth in Chapter 19.98 and on forms and with such additional information as designated by the director of community development. In addition to other requirements, the application must include documentation that:

(1) The project complies with all zoning and development standards for the MPSP area, in addition to general procedures and requirements of this code.

(2) All required CEQA documents have been prepared.

(3) The project proposal includes a TDM plan that complies with the trip reduction requirements set forth in the MPSP.

(d) Decisions.

(1) The planning commission, after holding at least one public hearing, by the affirmative vote of a majority of its voting members, may:

(A) Approve the major MP-SDP as requested or as changed, modified or conditioned by the planning commission if it finds that the use or project, as approved, meets the required findings.

(B) Deny the major MP-SDP if it finds that the use or project would not meet the required findings.

(2) After receiving an appeal from the decision of the planning commission on a major MP-SDP, and following a public hearing, the city council, by the affirmative vote of a majority of its voting members may:

(A) Approve the major MP-SDP as requested or as changed, modified or conditioned by the council, if the council finds that project as approved meets the required findings; or

(B) Deny the Major MP-SDP if the council finds that the project would not meet the findings.

(e) Findings. The planning commission or the city council may approve any major MP-SDP, upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the permit will both:

- (1) Attain the objectives and purposes of the MPSP; and
- (2) Ensure that the site improvements, general appearance of proposed structures, and the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties.

19.29.130 MPSP Green Building development requirement.

Effective January 1, 2009, all new development in the MP district greater than 10,000 square feet, regardless of the underlying zoning or proposed level of FAR, is required to meet the “design intent” of a “LEED™ Certified” or better level of green building design. Determination of a project square footage for triggering the green building threshold shall be made by the director of community development as described in the MPSP. For purposes of this section, “design intent” means site planning and building design that achieves at least the minimum number of LEED™ credits for a “Certified” building rating, as determined by the director of community development. The director of community development shall have the authority to determine the level of credit achievement in accordance with the procedures set forth in the MPSP. In the event the director of community development determines that a greater than 10,000 square foot project does not meet the required design intent, the application shall be processed as a major MP-SDP, regardless of its classification in Table 19.29.050.

19.29.140 MPSP Subdistrict site development standards.

(a) New development, redevelopment, expansions and additions shall conform to the regulations set forth in Table 19.29.140.

(b) Exceptions to height limits.

(1) Exceptions to the height limits shall apply in accordance with other provision of this title, however, in no event shall the height of a project exceed 125 feet, including mechanical equipment.

(2) Telecommunication and wireless facilities. Telecommunication facilities (e.g., antennae, poles, towers, and necessary mechanical appurtenances) may be authorized to exceed the height limit established for the Industrial zoning districts as set forth in chapter 19.54, subject to the approval of an SDP.

(3) Hotel use shall be allowed to exceed 75 feet with the issuance of an MP-SDP.

TABLE 19.29.140
MPSP Subdistrict Site Development Standards

Development Feature ⁴	MP-TOD	MP-I	MP-C
Minimum lot size	22,500 sq. ft.	22,500 sq. ft.	22,500 sq. ft.
Minimum lot width	100 feet	100 feet	100 feet
Minimum lot depth	150 feet	150 feet	150 feet
Maximum lot coverage (including parking garages)	45%	45%	45%
Setbacks from property lines			
Front Yard ²	15 feet	25 feet ⁴	25 feet ⁴
Side Total –no minimum required	20	20	0
Rear	None	None	25 feet
Maximum Height Limit ¹	75 feet	75 feet	75 feet
Minimum Off-Street Parking Required (based on gross floor area)			
R&D Office, General Office, Corporate Office and Administrative office ³	1 space per 300 square feet, Maximum of 1 space per 250 square feet		
General Industrial Uses	Minimum 1 space per 500 square feet, maximum of 1 space per 250 square feet		
Medical Office	1 space per 200 square feet		
Other Uses	As required in Chapter 19.46		
Sign provisions	See MPSP Section 5.13.		

Footnotes

¹ Approved Access to Development Reserve or TDR may go up to maximum of 125 feet.

² The first three stories of a building façade that contains a ground floor primary pedestrian entrance to the street may be as close as 15 feet from the property to further MPSP urban design or pedestrian-oriented guidelines. Additional stories above the third story shall be setback to the minimum distance.

³ The minimum number of required parking spaces may be reduced in conjunction with an approved Transportation Demand Management Program.

⁴ Lot development standards may refer to overall site, see Chapter 5 of the MPSP.

19.29.150 Deviations from development standards.

(a) Deviations to the following standards and regulations may be permitted by the approving authority for minor MP-SDP permits and major MP-DR and MP-SDP permits. No deviations may be granted through the minor MP-DR permit. If an applicant for a minor MP-DR seeks deviations from standards, the applicant must apply for a minor MP-SDP.

(1) Lot area;

- (2) Lot width/frontage;
- (3) Yards;
- (4) Setbacks;
- (5) Height;
- (6) Space (e.g. landscaping or open space);
- (7) Coverage (e.g. lot coverage, not including floor area ratio maximums)
- (8) Parking space requirements (e.g. number of spaces, type or percentage of vehicle spaces, aisle width, bicycle type);
- (9) Signage:
 - (a) Allowance for additional Upper Story Area of Wall Sign per facade
 - (b) One Additional upper story wall sign.
- (b) Deviations from the following standards are not permitted:
 - (1) Buildings and appurtenances in excess of 125 feet in height;
 - (2) Requirement for TDM program;
 - (3) Floor Area greater than the maximum FAR permitted in the MP-I, and MP-TOD subdistricts.
 - (4) Green building requirement as set forth in Section 19.29.140.

19.29.160 Application of mitigation measures.

The application of various mitigation measures to individual projects is dependent upon project intensity and location. The MPSP describes four tiers of development with increasing mitigation requirements. In addition to all other conditions and standards required by this code and the MPSP, individual projects will be subject to the mitigation measures as set forth in chapter seven of the MPSP and the mitigation monitoring program adopted with the MPSP Environmental Impact Report.